

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

**In re:**

**SERGIO A. TAVERAS,**

**Debtor.**

**CHAPTER 13**

**CASE NO. 07-32162-KRH**

**U.S. BANK NATIONAL ASSOCIATION AS  
TRUSTEE,**

**Plaintiff/Movant.**

**vs.**

**SERGIO A. TAVERAS  
ROBERT E. HYMAN, TRUSTEE,**

**Defendants.**

**MOTION FOR RELIEF**

**NOTICE**

**YOUR RIGHTS MAY BE AFFECTED. YOU SHOULD READ THESE PAPERS CAREFULLY AND DISCUSS THEM WITH YOUR ATTORNEY, IF YOU HAVE ONE IN THIS BANKRUPTCY CASE. (IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO CONSULT ONE.)**

**IF YOU DO NOT WISH THE COURT TO GRANT THE RELIEF SOUGHT IN THE MOTION, OR IF YOU WANT THE COURT TO CONSIDER YOUR VIEWS ON THE MOTION, THEN WITHIN FIFTEEN (15) DAYS FROM THE DATE OF SERVICE OF THIS MOTION, YOU MUST FILE A WRITTEN RESPONSE EXPLAINING YOUR POSITION WITH THE COURT AND SERVE A COPY ON THE MOVANT. UNLESS A WRITTEN RESPONSE IS FILED AND SERVED WITHIN THIS FIFTEEN (15) DAY PERIOD, THE COURT MAY DEEM OPPOSITION WAIVED, TREAT THE MOTION AS CONCEDED, AND ISSUE AN ORDER GRANTING THE REQUESTED RELIEF WITHOUT FURTHER NOTICE OR HEARING.**

**IF YOU MAIL YOUR RESPONSE TO THE COURT FOR FILING, YOU MUST MAIL IT EARLY ENOUGH SO THE COURT WILL RECEIVE IT ON OR BEFORE THE EXPIRATION OF THE FIFTEEN (15) DAY PERIOD.**

**ATTEND THE PRELIMINARY HEARING SCHEDULED TO BE HELD ON  
OCTOBER 16, 2007 AT 9:30 AM IN THE U. S. BANKRUPTCY COURT,  
RICHMOND DIVISION, U. S. COURTHOUSE ANNEX, 1100 EAST MAIN  
STREET, RICHMOND, VIRGINIA 23219 IN ROOM 345.**

**NOTICE FROM SAMUEL I. WHITE, P.C.**

**PURSUANT TO THE FEDERAL FAIR DEBT COLLECTION PRACTICES ACT, WE ADVISE YOU THAT SAMUEL I. WHITE, P.C., COUNSEL FOR THE PLAINTIFF, IS A DEBT COLLECTOR, ATTEMPTING TO COLLECT THE INDEBTEDNESS REFERRED TO HEREIN, AND ANY INFORMATION WE OBTAIN FROM YOU WILL BE USED FOR THAT PURPOSE.**

### **MOTION FOR RELIEF**

The Motion of U.S. Bank National Association as Trustee, by Counsel, hereby moves the Court for relief from the automatic stay and in support thereof represents unto the Court:

1. This Court has Jurisdiction over this proceeding pursuant to 28 U. S. C. Sections 157 and 1334 and 11 U. S. C. 362 (d), and that this matter is a core proceeding.

2. The Debtor filed a Petition under Chapter 13 of the Bankruptcy Code on June 13, 2007.

3. The Debtor is the owner of the real property located at 5106 Timbercreek Court, Richmond, VA 23237, which property is described as:

ALL THAT CERTAIN LOT OR PARCEL OF LAND, WITH IMPROVEMENTS THEREON AND APPURTENANCES THEREUNTO BELONGING, LYING AND BEING IN DALE DISTRICT, CHESTERFIELD COUNTY, VIRGINIA, KNOWN, NUMBERED AND DESIGNATED AS LOT 47, ASHTON WOODS SOUTH, AS SHOWN ON PLAT OF SUBDIVISION ENTITLED "ASHTON WOODS SOUTH" MADE BY POTTS, MINTER & ASSOCIATES, PC., ENGINEERS, LAND SURVEYORS AND PLANNERS, DATED JULY 21, 1989, RECORDED JANUARY 5, 1990, IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF CHESTERFIELD COUNTY, VIRGINIA, IN PLAT BOOK 89, PAGE 48 AND 49, REFERENCE TO WHICH IS HEREBY MADE FOR A MORE PARTICULAR DESCRIPTION.

THE IMPROVEMENTS THEREON BEING KNOWN AS: 5106 TIMBERCREEK, RICHMOND, VA 23237.

4. Plaintiff is the holder of a certain Deed of Trust Note dated June 23, 2005, which Note is secured by a Deed of Trust of even date therewith and duly recorded.

5. The account is in arrears for 2 monthly post-petition mortgage installments, with the post-petition reinstatement through September, 2007, being \$3,277.98, calculated as follows:

2 monthly payments (08/07-09/07) @ \$1,021.40/month	\$ 2,042.80
Accrued post-petition late charges	85.18
Proof of Claim fees and cost	350.00
Bankruptcy fees and costs	<u>800.00</u>
Total	\$ 3,277.98

6. The unpaid principal balance due on said note is \$157,500.00, and the present approximate payoff balance is \$162,600.00.

7. It is the opinion of the Plaintiff that the Debtor is financially unable to maintain said obligation and that Plaintiff will suffer irreparable injury, loss and damage if it is not permitted to foreclose upon its security interest; otherwise Plaintiff is without adequate protection.

**WHEREFORE**, Plaintiff prays that it be granted relief from the provisions of the automatic stay with regard to the said real property in order to pursue its rights pursuant to the terms of the Note and Deed of Trust, to include the initiation of foreclosure proceedings, and further requests that the ten (10) day stay be waived incident to any Order entered incident to the Motion for Relief herein.

U.S. BANK NATIONAL ASSOCIATION AS TRUSTEE

By: /s/ ERIC DAVID WHITE

Of Counsel

Samuel I. White, P. C.

Eric David White, Esquire, VSBN 21346

D. Carol Sasser, Esquire, VSBN 28422

Michael T. Freeman, Esquire, VSBN 65460

1804 Staples Mill Road, Suite 200

Richmond, VA 23230

CERTIFICATE

I hereby certify that a true copy of the foregoing Motion was served by regular mail or email this 18th day of September, 2007 on all necessary parties including Robert E. Hyman, Esquire, Trustee, Post Office Box 1780, Richmond, VA 23218-1780; Richard James Oulton, Esquire, Counsel for Debtor, Affiliated Attorneys, Inc., 2807 N. Parham Road, Suite 107, Richmond, VA 23294; and Sergio A. Taveras, Debtor, 5106 Timbercreek Court, Richmond, VA 23237.

/s/ ERIC DAVID WHITE

Samuel I. White, P. C.

2802-07/cmh